

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	CASE NO. 2:20-cr-53
	:	
Plaintiff,	:	CHIEF JUDGE ALGENON L. MARBLEY
	:	
v.	:	
	:	
JOSEPH V. RUSSELL, JR.	:	<u>GOVERNMENT’S SENTENCING</u>
	:	<u>MEMORANDUM</u>
Defendant.	:	

The United States of America, by and through its undersigned counsel, respectfully submits this memorandum for the sentencing of Defendant Joseph V. Russell, Jr. (Defendant or Russell). For the reasons set forth herein, the United States recommends a sentence of 36 months’ imprisonment for the present offense, followed by three years of supervised release.

I. Background

On January 28, 2020, Mr. Russell was found in possession of a loaded semi-automatic SCCY pistol. On March 13, 2020, a federal grand jury returned a corresponding Indictment charging Mr. Russell with one count of possessing a firearm as a prior convicted felon. The Defendant subsequently entered a plea of guilty to the felon-in-possession charge on September 17, 2021, pursuant to a plea agreement entered under Rule of Criminal Procedure 11(c)(1)(C). According to the plea agreement, the parties reached an agreed-upon sentencing disposition of 36 months of imprisonment, to be followed by a term of supervised released to be determined by the Court. Sentencing in this matter is scheduled for February 11, 2022, at 9:00 a.m.

II. Guidelines/Presentence Report

The Probation Officer issued a final Presentence Report (PSR) on December 6, 2021. The PSR came to a base offense level of 20 given the Defendant’s prior convictions (U.S.S.G. § 2K2.1(a)(4)), and a total offense level of 17 after accounting for acceptance of responsibility. The

PSR further calculated the Defendant's Criminal History (CH) Category as a V, with a resulting range of 46–57 months. (PSR, ¶ 61.) The Probation Officer did not identify any factors warranting departure from the Guidelines range. (*Id.* ¶ 78.) There are no outstanding objections to these calculations.

III. The Proper Sentence

Sentencing requires a determination of the applicable guideline range, whether a departure is appropriate, and a consideration of the factors in 18 U.S.C. § 3553(a). *See Gall v. United States*, 552 U.S. 38, 49–50 (2007). Based upon these factors, and consistent with the parties' agreement in this case, the Government asks that the Court sentence the Defendant to 36 months' imprisonment, followed by three years of supervised release.

The circumstances of this case and the Defendant's past support a serious term of incarceration. Firearms are dangerous, particularly in the hands of someone with multiple prior felony convictions like the Defendant. To that end, the Defendant's criminal history is serious. He's a CH V, and his prior offenses—which include convictions for, among other crimes, rape (for forcing multiple women to have sex with him at point) and felonious assault (for forcing a woman to have sex with him at gunpoint)—indicate that he has the potential to be a substantial risk to the community. In further support of this point, during the pendency of this case, the Defendant also pled guilty to another felonious assault charge in Franklin County—again concerning a sexual assault that involved a firearm. (*See, e.g.*, PSR ¶ 35.)¹ At a minimum, the parties' agreed-upon sentence keeps the public safe from the Defendant for his term of incarceration.

¹ The PSR indicates that Mr. Russell is set to be sentenced in his Franklin County case on December 17, 2021. (PSR ¶ 35.) It is the understanding of current counsel for the Government that the parties, including the prosecution for Franklin County, agreed that Mr. Russell would be sentenced in this case first, and that Mr. Russell's currently scheduled Franklin County sentencing will therefore be continued.

IV. Conclusion

For the reasons set forth above, the United States respectfully recommends that Defendant Joseph V. Russell, Jr. be sentenced to 36 months' incarceration, followed by three years of supervised release. The Government submits that this sentence is sufficient but not greater than necessary to satisfy the statutory purposes set forth in 18 U.S.C. § 3553(a).

Respectfully submitted,

KENNETH L. PARKER
United States Attorney

s/S. Courter Shimeall
S. COURTER SHIMEALL (OH 0090514)
Assistant United States Attorneys
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215
O: (614) 469-5715 / F: (614) 469-5653
Email: courter.shimeall@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Government's Sentencing Memorandum* was electronically served via the Court's CM/ECF system this 14th day of December, 2021, upon counsel of record for Defendant Joseph V. Russell, Jr.

s/S. Courter Shimeall
S. COURTER SHIMEALL (0090514)
Assistant United States Attorney